

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

4 - - - - - x

5 In the Matter of:

6

7 CELSIUS NETWORK LLC,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 One Bowling Green

14 New York, NY 10004

15

16 October 5, 2023

17 10:03 AM

18

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20

21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: KAREN

1 HEARING re HYBRID CONFIRMATION HEARING

2
3 HEARING re Hybrid Hearing RE: Motion for Entry of an Order
4 (I) Approving the Settlement By and Between the Debtors and
5 Walter Johnson and (II) Granting Related Relief. (Doc# 3472,
6 3473, 3503, 3504)

7
8 HEARING re Hybrid Hearing RE: Debtors Motion for Entry of an
9 Order Authorizing the Debtors to Redact and File Under Seal
10 Certain Confidential Terms of the Coinbase Distribution
11 Services Agreement. (Doc# 3482, 3522)

12
13 HEARING re Hybrid Hearing RE: Debtor's Motion for Entry of
14 an Order (I) Approving the Settlement By and Among the
15 Debtors and Core Scientific, (II) Authorizing Entry Into the
16 Purchase and Sale Agreement, (III) Authorizing Intercompany
17 Transfers with Celsius Mining, and (IV) Granting Related
18 Relief. (Doc# 3474)

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25 Transcribed by: Sonya Ledanski Hyde

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11 DAMETRI KISNOUGH, Pro se creditor

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I N D E X

WITNESSES: DIRECT: CROSS: REDIRECT: RECROSS:

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1 P R O C E E D I N G S

2 CLERK: All right, starting the recording for
3 October 5th, 2023, at 10 a.m., calling case Number 22-10964
4 Celsius Network, LLC et al. All right, good morning. We
5 have already started the recording for today's hearing. If
6 anyone is speaking on the record this morning in the
7 courtroom, please come to the middle podium and state your
8 appearance for the record.

9 WOMAN 1: (Indiscernible) -- I think she wants
10 you.

11 WOMAN 2: Do you need their appearance?

12 CLERK: Yes. Yes, please.

13 WOMAN 2: Good morning Deanna, from Kirkland and
14 all, we're going to have Dan Latona and Patricia Loureiro
15 and maybe Chris Koenig.

16 CLERK: Okay, thank you.

17 WOMAN 2: Thank you.

18 WOMAN 1: Deanna, I want you to make your
19 appearance, all right, please thank you.

20 MR. PEREZ: Good morning Alfredo Perez on behalf of
21 Core Scientific.

22 CLERK: All right, thank you. Is there anyone on
23 Zoom that is going to be speaking this morning? Dametri?

24 DAMETRI KISNOUGH: Good morning Dametri Kisnough,
25 pro se creditor. Thank you.

1 CLERK: Thank you.

2 MS. CORNELL: Good morning Deanna, you have Shara
3 Cornell at the Office of the United States Trustee, I think
4 I may be joined by my colleague Mark Bruh, also on Zoom.
5 Thank you.

6 CLERK: Okay. I will look out for him. Thank
7 you.

8 MS. CORNELL: Thank you.

9 CLERK: All right, if there are no additional
10 appearances at this time, I'll pause the recording.

11 All right, good morning for the parties that have
12 joined in the courtroom, please come to the middle podium,
13 and state your appearance, for the record, if you have not
14 already done so.

15 MR. WOFFARD: Good morning, Keith Woffard from
16 White & Case on behalf of the Official Committee. I'm here
17 with my colleagues, Aaron Colodny, and Caitlin O'Connell.

18 CLERK: Thank you. Do we have any additional
19 appearances in the courtroom?

20 WOMAN 1: No, not that I see, Deanna.

21 CLERK: Okay, thank you. Are there any additional
22 parties on Zoom that are speaking on the record? If so,
23 please raise your hand function in Zoom. (Indiscernible).

24 WOMAN 1: Okay, thanks very much. I'm sorry,
25 Deanna, were you speaking to me?

1 CLERK: No, I was speaking to parties on Zoom if
2 they need to make their appearance.

3 WOMAN 1: Okay, sorry.

4 CLERK: No, no, you're fine. Thank you. Hold on,
5 one second. All right, the recording is restarted. Go
6 ahead Ms. Dow. You can re --

7 MS. DOW: Yes, good morning, Sharon Dow, pro se
8 creditor.

9 CLERK: Okay, thank you. All right, this is the
10 final call for appearances. Do -- are we waiting on anyone
11 in the courthouse that should be coming into the courthouse?
12 Debtors counsel, Creditor's Committee Counsel, are we
13 waiting on anyone?

14 MR. LATONA: Deanna, Dan Latona with Kirkland and
15 Ellis for the Debtors, we're ready to go, expecting no one
16 else.

17 CLERK: Okay. Thank you. All right, this is the
18 final call for appearances on Zoom, if anyone is on Zoom is
19 speaking on the record this morning, please use the raise
20 hand function in Zoom to state your appearance for the
21 record. All right I do not see any hands. All right, we're
22 about ready to go and just kind of read the script into the
23 record.

24 All right. If the parties could listen to the
25 following announcements. All persons are strictly

1 prohibited from making any recording of court proceedings
2 whether by video, audio, screenshot, or otherwise.
3 Violation of this prohibition may result in the imposition
4 of monetary and non-monetary sanctions. The clerk of the
5 court maintains an audio recording of all proceedings, which
6 constitutes the official record. The parties must state
7 their name each time they speak on the court record. A
8 party must join with a full first and last name to be
9 admitted from the waiting room, or this cell phone number of
10 phone number that they join with needs to be the same as
11 what is given on your pre-court appearance. Parties that go
12 in with initials, a partial name, a designation such as
13 iPhone, et cetera will not be admitted. Please mute your
14 cell phone and make sure that there are no electronic
15 devices or notifications that will interfere with the
16 recording. Thank you.

17 GROUP: Thank you.

18 OFFICER: All rise.

19 THE COURT: Please be seated. Good morning.

20 MR. LATONA: Good morning, Your Honor. For the
21 record --

22 THE COURT: (Indiscernible) --

23 MR. LATONA: -- Dan Latona, Kirkland & Ellis --
24 I'm sorry?

25 THE COURT: Short agenda today.

1 MR. LATONA: I'm sure that's a welcome -- welcome
2 sight after this past week.

3 THE COURT: It is.

4 MR. LATONA: Again, for the record, Dan Latona of
5 Kirkland and Ellis on behalf the Debtors. As Your Honor,
6 mentioned we do have a brief agenda. Before I get started,
7 I do want to inform the Court and everyone else listening
8 that the Debtor's became aware of another fishing attempt
9 yesterday. We immediately shut it down, but what had
10 happened was an individual can go to a website and enter in
11 a support ticket and within that website you can enter an
12 email address to which the ticket will then be sent, and it
13 appears that it's from support.celsius. This individual had
14 tampered with the format and included a link that was sent
15 to another domain, not affiliated with the Debtor's. The
16 Debtor's will be filing a notice of this fishing attempt on
17 the docket after the Court today, but we anticipate that it
18 affected several hundred thousand customers. We did, again,
19 shut it down immediately after we became aware of it.

20 THE COURT: Have you notified the US Trustee as
21 well?

22 MR. LATONA: Not yet.

23 THE COURT: Somebody should reach out and let the
24 US Trustee know.

25 MR. LATONA: Yes we will do so immediately.

1 THE COURT: And they maybe want to advise other
2 law enforcement. Okay.

3 MR. LATONA: Moving into the agenda, Your Honor,
4 we're going to start with Item Number 2, which is the
5 Debtor's settlement motion with Core Scientific. That
6 motion was filed at Docket Number 3474. As part of that
7 motion, we filed the declaration of Mr. Christopher Ferrara,
8 that's at Docket Number 6565. Mr. Ferrara is in the
9 courtroom to the extent anyone has questions or wishing to
10 cross-examine him. Assuming Your Honor, has no further
11 questions, we would move that declaration into evidence.

12 THE COURT: I -- any objections? All right, it's
13 admitted into evidence.

14 (Christopher Ferrara Declaration admitted into
15 evidence)

16 MR. LATONA: Thank you, Your Honor.

17 THE COURT: There was also the motion to seal
18 information in the coin base --

19 MR. LATONA: Yes, that's another item on the
20 agenda.

21 THE COURT: Okay. We can take them at the same
22 time. That's ECF 34812.

23 MR. LATONA: And it's unrelated to this motion,
24 Your Honor.

25 THE COURT: Oh, okay. All right, we'll deal with

1 the settlement first then.

2 MR. LATONA: Your Honor, the Debtor's relationship
3 with Core Scientific dates back to 2020. The parties are --
4 have entered into several agreements for Master services.
5 One is the 2020 Master Services Agreement, the other is 2021
6 Master Services Agreement. The Debtor's also holds
7 approximately \$54 million in convertible notes. Those
8 claims are not subject to the settlement. That's actually
9 subject of another mediation that's ongoing with the Core
10 Scientific Debtors, the ad hoc group in that case, before
11 Judge Isgur in the Southern District of Texas.

12 Prior to the Chapter 11 cases, both the Debtor's
13 and Core became enmeshed in a series of disputes regarding
14 certain passthrough charges under the hosting agreements.
15 The Debtor's in their Chapter 11 cases filed a motion to
16 enforce the automatic stay. Core then responded by filing a
17 motion in these Chapter 11 cases to compel payment and
18 either sought to lift the automatic stay or compelled the
19 assumption of those contracts.

20 The litigation regarding those matters was put on
21 hold, temporarily, when Core filed for its own Chapter 11
22 cases in December of 2020, and shortly thereafter rejecting
23 the hosting agreements. After the hosting agreements were
24 rejected, the parties filed competing proofs of claims in
25 their respective Chapter 11 cases. The Debtor's filed their

1 proofs of claim in the Core Chapter 11 cases, alleging
2 breaches of the Master Services Agreement, damages related
3 to the return of mining rigs and other liquidated damages
4 that are under in excess of \$300 million .

5 Core objected to those proofs of claims and either
6 after filed a motion for partial summary judgement. That
7 was put on stay as the parties realized that litigating
8 these complex disputes would be value destructive to both
9 Chapter 11 cases, and in light of that, agreed to mediation
10 in front of Judge Isgur, that was set to begin in June.

11 Prior to the mediation beginning, the parties did
12 reach an agreement on the terms of a settlement, sometime in
13 late June, early July, and then took the rest of the few
14 months to negotiate the term of the settlement, which is
15 embodied in the purchase -- purchase agreement. And as part
16 of that settlement agreement, Your Honor, the Debtor's are
17 going to acquire approximately 85 acre mining facility with
18 at least 215 megawatts of electric capacity --

19 THE COURT: That's Cedarvale?

20 MR. LATONA: That's the Cedarvale site, Your
21 Honor. The acquisition price is set at \$45 million and that
22 comprises two components. One is a \$14 million cash payment
23 to be made on the effective date of the settlement, and \$31
24 million will be deemed to be paid in satisfaction of the
25 released claims by both parties.

1 Your Honor, this settlement resolves complex fact
2 intensive claims that would have involved value destructive
3 litigation that most likely would still be ongoing as of
4 this moment. Albeit in two competing Chapter 11 cases.
5 This also fits within NewCo's forward business model by
6 adding a valuable mining asset to one of the core NewCo
7 business lines. USBT -- US Bit Coin is also a very
8 competent manager and is already laying the ground work to
9 begin and complete build out of the site.

10 Now, Your Honor, in addition to seeking authority
11 to enter into the purchase agreement, the Debtor's are also
12 asking for relief to permit intercompany transfers from the
13 Debtor's to Celsius Mining, which we're prohibited under the
14 final cash management order. So, to allow US -- Celsius
15 Mining to begin developing the site and paying for those
16 costs, we're also seeking approval of Celsius Mining
17 intercompany transfers.

18 Your Honor, the Debtor's received no objection to
19 the motion -- the Committee and Fahrenheit are both fully on
20 board. So, unless Your Honor, has any questions, we would
21 ask for entry of the order --

22 THE COURT: Okay.

23 MR. LATONA: -- as filed.

24 THE COURT: As I understand it, the assignment
25 also includes a provision that Celsius has the option to

1 energize this station early at an additional cost of
2 \$160,000?

3 MR. LATONA: That's right.

4 THE COURT: And Celsius is retaining certain
5 claims related to a convertible notes?

6 MR. LATONA: Yes, those are not part of the
7 settlement, as I mentioned, those are part of an ongoing
8 mediation in front of Judge Isgur with the Core Debtors.

9 THE COURT: All right. And as part of the
10 settlement, you're asking for the Court to waive the 14 day
11 stay under 6004(h)?

12 MR. LATONA: That's correct. The -- the order was
13 previously entered in Core's bankruptcy cases this previous
14 Monday. We expect closing to happen very quickly
15 thereafter, within the next four or five days.

16 THE COURT: All right. So, I considered the usual
17 standards under Rule 9019, I won't go through since there
18 were no objections filed, I'm not going to go through any of
19 those. You know, I've analyzed the -- you know, as I always
20 do, I apply the In Re: Iridium Operating System from the
21 Second Circuit, seven non inclusive factors, reports to
22 consider whether to approve settlements. I won't go through
23 each factor since there are no objections other than to say
24 that I've considered each to the extent applicable in this
25 circumstances. I find the settlement easily satisfies the

1 requirements in the Iridium and 9019 and be able to approve
2 the settlement. And including the waiver of the 14 day.

3 MR. LATONA: Great. Thank you, Your Honor. For
4 the remainder of the agenda, I'll cede the lectern to my
5 colleague Ms. Loureiro.

6 THE COURT: Thank you.

7 MS. LOUREIRO: Good morning, Your Honor. For the
8 record, Patricia Louriero from Kirkland & Ellis.

9 THE COURT: Good morning.

10 MS. LOUREIRO: Good morning. Next on the agenda,
11 we are going to turn to the Debtor's motion seeking approval
12 of settlement with a former employee. And the motion was
13 filed --

14 THE COURT: Walter Johnson?

15 MS. LOUREIRO: Correct. In support of the motion,
16 we filed at Docket from Mr. Ferrara at Docket Number 3473,
17 and he's available in the courtroom and available for cross,
18 but absent objection, we'd ask that this be admitted into
19 evidence.

20 THE COURT: All right, it's admitted into
21 evidence.

22 (Christopher Ferraro Declaration admitted into
23 evidence)

24 MS. LOUREIRO: Thank you. As a bit of background,
25 Mr. Johnson was employed at the Debtor's beginning in August

1 of 2021, and was separated from his employer in April of
2 this year. In June of this year, he sent Celsius a demand
3 letter alleging, among other things, sex discrimination and
4 sexual harassment. The settlement agreement contemplates a
5 \$10,000 payment to be made to Mr. Johnson in exchange for
6 the release of his claims. This settlement agreement has
7 the support of counsel to the Committee any final discussion
8 and review of the agreement.

9 Given any expected costs and risk of this
10 uncertainty associated with the fully litigating these
11 claims, the Debtor's, in an exercise of their business
12 judgement, believe the settlement is fair and equitable, and
13 in the best interest of the estates and with that
14 background, I'll be happy to answer any questions.

15 THE COURT: Anybody else wish to be heard? All
16 right, you know, I've again evaluated this proposed
17 settlement, applying the In Re: Iridium Operating Decision,
18 which is at 478 F.3d at 52, (2d Cir. 2007). Again, in the
19 absence of any objections, I will not go through the seven
20 factors other to say I've considered each to the extent
21 applicable under the circumstances. It's clear to me that
22 the cost of litigating this dispute with Mr. Johnson would
23 far exceed the \$10,000 that's being paid in settlement. I
24 consider this to be settlement being the best interest of
25 the estate and it's approved.

1 MS. LOUREIRO: Thank you, Your Honor.

2 THE COURT: Thank you.

3 MS. LOUREIRO: Final item on the agenda is
4 actually Agenda Item 1, which you already referenced, which
5 is the sealing motion related to the coin base agreements.
6 The motion was filed at Docket Number 3482. And last night,
7 as a courtesy to counsel to Coin Base, who indicated they
8 may have a conflict this morning, we filed a C and O, at
9 Docket Number 3711, so we're happy to walk through, just
10 explaining a bit while we're here.

11 THE COURT: No while -- I take a rather strict
12 view of sealing. I've reviewed this motion and -- and the
13 matters that want to seal, and I think are appropriate and
14 so it's granted.

15 MS. LOUREIRO: Thank Your Honor.

16 THE COURT: Okay.

17 CLERK: I think that's it then.

18 THE COURT: I think that's it.

19 THE COURT: Mr. Perez, are you here because you
20 were representing Coin Base?

21 MR. PEREZ: I am, Your Honor. Nice to be here.

22 THE COURT: Would you like to stop in the
23 chambers?

24 MR. PEREZ: I will, Your Honor.

25 THE COURT: We're -- let's put it this way, it's

1 been a long time that Mr. Perez has been appearing in this
2 court (indiscernible) -- okay. All right. See you again
3 soon.

4 MS. LOUREIRO: Thank you, Your Honor.

5 MR. LATONA: Thank you, Your Honor.

6 (Whereupon these proceedings were concluded at
7 9:38 AM)

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I N D E X

RULINGS

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: October 8, 2023

[& - applying]

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